



THE CENTER FOR FOOD SAFETY

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12 June 2006

Mark A. Bradley
Associate Deputy Administrator
Transportation and Marketing Programs
National Organic Program
1400 Independence Ave., SW
Room 4008-So., Ag Stop 0268
Washington DC 20250

RE: Docket No. TM-05-14

Comments on National Organic Program's ANPRM - Access to Pasture (Livestock)

Pursuant to the National Organic Program's (NOP) notice in the Federal Register, the Center for Food Safety (CFS) submits the following information and comments concerning Access to Pasture (Livestock). 71 Fed Reg 19131 (Apr. 13 2006). CFS is a non-profit, membership organization that works to protect human health and the environment by curbing the proliferation of harmful food production technologies and by promoting organic and other forms of sustainable agriculture. See generally <http://www.centerforfoodsafety.org>. CFS has also provided other comments on this ANPRM through its participation in the National Campaign for Sustainable Agriculture and the National Organic Coalition (endorsing the comments submitted by the Northeast Organic Dairy Producers Association).

More specifically, the ANPRM sought responses to a number of questions. CFS provides the following responses.

Issues of Consumer Preference

Are there market-based or other types of research to substantiate an expectation by consumers that organic milk comes from dairy cows raised on **pasture**? Is there evidence, data, or other types of research that the role of **pasture** as it exists in the regulations does not support consumers' beliefs about the relationship between organic milk and organic dairy cows?

Response 1: CFS Polling Data

In an effort to address these questions the CFS commissioned a national polling firm to address this issue. The full data set is attached accompanying these comments. The data suggest that if the USDA does not require stringent regulations that organic cows be raised for a significant period of time outdoors and on pasture, there could be substantial erosion of the organic milk market. The poll asked two questions:

First, how often do you purchase organic milk?

1. Frequently [ASK Q2]
2. Seldom [ASK Q2]
3. Never
9. Don't know
0. Refused

Second, if you knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives, would you still purchase organic milk?

1. Yes
2. No
9. Don't know
0. Refused

The results found that 19% of Americans purchase organic milk. The data also present a clear picture of consumer expectations concerning the pasture requirements for organic milk production.

Some of the results were as follows:

- A majority of organic milk purchasers (51%) say they would no longer purchase organic milk if they knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives.

Maybe even more significantly, almost half of the frequent organic milk purchasers would alter their purchasing habits:

- Forty-four percent (44%) of those who frequently purchase organic milk would no longer do so if they knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives.

Moreover, women (the principal family food purchasers) are even more apt to change their organic milk purchasing habits:

- Sixty-one percent (61%) of women who purchase organic milk either frequently or seldomly would no longer do so if they knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives.

Finally, the data show that if organic milk producers hope to grow the organic milk market by changing seldom purchasers into frequent purchasers, a strong pasture requirement should be put in place because:

- Fifty-eight percent (58%) of consumers that seldom purchase organic milk state they would not purchase organic milk if they knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives.

The national polling was conducted by the firm American Viewpoint. This data is from a national survey of 1011 U.S. adults conducted March 29 through April 3, 2006. The margin of error for the entire sample is plus or minus 3% at the 95% confidence level. The margin of error for the organic milk consumers (n=188) is plus or minus 7.2% at the 95% confidence. Full data from this poll is attached and available at <http://www.centerforfoodsafety.org>. CFS notes that the sample size used in it polling is consistent with the survey sample size used by the California Institute for Rural Studies, in its USDA-AMS funded study, "Regulating Organic: Impacts of the National Organic Standards on Consumer Awareness and Organic Consumption Patterns."

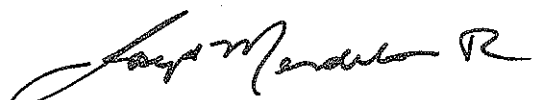
Response 2: Data from Original NOP Rulemaking

Based upon its review of public comments from the first proposed National Organic Program regulations, CFS strongly believes that the public has continuously expected the organic standards to be a standard dedicated to providing real outdoor access to livestock including pasture for dairy animals. Of the 201,794 public comments CFS reviewed during the rulemaking 29% of the public comments supported regulations with strong outdoor access requirements such as pasture. Indeed, outdoor access was the sixth most commented upon issue area in the rulemaking ranking only behind the "Big Three" (genetic engineering, irradiation and sewage sludge), NOSB authority and the use of antibiotics.

As result of this data and the scientific data submitted in the other referenced comments, CFS urges the NOP to adopt a mandatory verifiable regulatory requirement for pasture that clearly excludes confined animal feeding operations. At a minimum, this new regulation should be drafted so as to contain the NOSB's Recommendations for Pasture Requirements for Ruminants dated November 17, 2005 and regulatory amendments (not just goals in the organic system plan) requiring grazed feed greater than 30 percent dry matter intake on a daily basis during the growing season but not less than 120 days. This dry matter intake recommendation is in keeping with dairy business definitions used by Cornell University and the University of Wisconsin, which define grazing farms as those which provide at least 30 to 40 percent of dry matter from foraging pasture during the grazing season. CFS also strongly supports the NOSB's proposed amendments to §205.239 and §205.237 that specifically define the term stage of "life" and ensure that dairy animals that are lactating cannot be confined based upon a vague "stage of production" temporary confinement standard.

CFS requests that the agency move quickly to adopt these regulatory changes so that integrity of the organic regulations is maintained and consumer confidence in organic products is not diminished through weak standards or enforcement policies.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph Mendelson III". The signature is fluid and cursive, with a large, stylized "R" at the end.

Joseph Mendelson III
Legal Director

Attach.

March 29 - April 3, 2006

TABLE 001

Note: Percentage less than 0.05 printed as *.

2147 = 214,700,000 which represents the U.S. Population 18 years of age or older.

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AMERICAN VIEWPOINT®

March 29 - April 3, 2006

TABLE 002
OR-2. If you knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives, would you still purchase organic milk?
Base: Total Respondents that purchase organic milk

| SEX | | AGE | | | | | | | HOUSEHOLD INCOME | | | | REGION | | | | EDUCATION | | | RACE | MILK USER | | | | |
|------------------|--|-------|-------|-------|-------|----------|----------|----------|------------------|-----------|-------------|------------------|------------------|-------------|---------------|------------------|--------------|-------------|--------------|--------------|--------------|-------|----------------|-------|-------|
| | | FE-- | | | | | | | | | | | | | | | | | | | MILK USER | | | | |
| TOTAL MALE | | 18-34 | 35-44 | 45-54 | 55-64 | 65- % | 75- % | 85- % | 95- % | 100- % | UNDER \$25K | \$25K- \$49.9 | \$50K- \$74.9 | \$75K+ % | NORTH EAST | NORTH CENTRAL | SOUTH (O) | WEST (P) | H.S. LESS | SOME COLL | POST COLL | WHITE | BLACK (NET) | FREQU | SELD |
| | | (B) | (C) | (D) | (E) | (F) | (G) | (H) | (I) | (J) | (K) | (L) | (M) | (N) | (O) | (P) | (Q) | (R) | (S) | (T) | (U) | (V) | (W) | (X) | |
| TOTAL UNWEIGHTED | | 188 | 101 | 87 | 46 | 37 | 35 | 28 | 38 | 45 | 36 | 22 | 40 | 43 | 37 | 62 | 46 | 52 | 51 | 80 | 156 | 20 | 188 | 83 | 105 |
| TOTAL WEIGHTED | | 403 | 214 | 190 | 177 | 92 | 60 | 26 | 44 | 107 | 67 | 41 | 105 | 75 | 75 | 145 | 109 | 178 | 106 | 111 | 319 | 48 | 403 | 208 | 195 |
| | | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| Yes | | 188 | 116 | 71 | 92 | 37 | 36 | 11 | 11 | 48 | 21 | 15 | 66 | 46 | 27 | 63 | 51 | 78 | 60 | 46 | 159 | 20 | 188 | 116 | 72 |
| | | 46.5 | 54.5 | 37.5 | 52.0 | 40.3 | 60.1 | 40.8 | 24.2 | 45.2 | 32.1 | 37.4 | 62.4 | 61.7 | 36.6 | 43.7 | 46.5 | 43.7 | 56.9 | 40.9 | 49.9 | 42.5 | 46.5 | 55.6 | 36.8 |
| No | | 205 | 90 | 115 | 85 | 53 | 23 | 10 | 31 | 58 | 41 | 25 | 39 | 28 | 45 | 78 | 54 | 95 | 43 | 63 | 151 | 26 | 205 | 91 | 114 |
| | | 50.8 | 42.0 | 60.7 | 48.0 | 58.0 | 37.6 | 39.9 | 69.6 | 54.5 | 61.4 | 59.8 | 37.4 | 36.9 | 60.4 | 53.6 | 50.2 | 53.6 | 40.2 | 56.5 | 47.1 | 54.6 | 50.8 | 43.9 | 58.2 |
| Don't know | | 10 | 7 | 3 | - | 1 | 1 | 1 | 5DE | 2 | 0 | 4 | 1 | 0 | 1 | 2 | 4 | 3 | 5 | 2 | 3 | 9 | 1 | 10 | 1 |
| | | 2.5 | 3.1 | 1.7 | - | 1.6 | 2.3 | 19.3 | 4.4 | C.3 | 5.4 | 2.8 | 0.2 | 1.4 | 3.0 | 2.7 | 2.6 | 2.7 | 2.3 | 2.6 | 2.7 | 2.9 | 2.5 | 0.5 | 4.6 |
| Refused | | 1 | 1 | - | - | - | - | - | 1 | - | 1 | - | - | - | - | - | - | 1 | - | 1 | - | 1 | - | 1 | - |
| | | 0.2 | 0.4 | - | - | - | - | - | 1.7 | 1.1 | - | - | - | - | - | - | - | 0.7 | - | 0.7 | - | 0.2 | - | 0.2 | 0.4 |

(sig=.05) (n,k) columns tested BC, DEFGH, IJKL, MNOP, QRS, TU, VWX
Note: Frequencies are reported in 100,000's.
2147 = 214,700,000 which represents the U.S. Population 18 years of age or older.



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